

THE IMPORTANCE OF THE POLICE REPORT

MEMORANDUM

To: Law Enforcement Officer

From: Federal Trade Commission Staff

Re: The Importance of Writing a Police Report for Victims of Identity Theft

Victims of identity theft need your comprehensive police report to assert their federal rights and recover from the crime. Federal Trade Commission staff wants you to know about the agency's online ID Theft Complaint form, which will make it easier for you to include all of the required information in your report.

Why Victims Need Your Report

Under the federal Fair Credit Reporting Act (FCRA), a detailed police report is required before victims can claim certain rights under the law. Your detailed report helps victims clear their credit reports of any negative information that resulted from identity theft — such as bad debts — and avoid the long-term effects of a poor credit score, such as being refused new credit or insurance or paying higher interest rates. A detailed police report also helps victims keep fraudulent debts from reappearing on their credit reports or ending up in the hands of a new debt collector.

Your detailed report, identifying the accounts resulting from identity theft, is necessary to set in motion a chain of events: the credit reporting agency removes all fraudulent debts from appearing on the credit report, and the credit score is restored; then, the credit reporting company notifies any businesses holding those fraudulent accounts that the accounts result from identity theft. The business cannot then sell the bad debts for collection or continue to report them to the credit reporting company.

What to Include in the Report

By law, a victim can only assert his or her rights if the police report specifies which accounts and information on the credit report resulted from the identity theft.¹ The police report should name any known institution where the thief opened or misused the account, and include information, such as the account number, the amount the thief spent or stole using the account, and the date the account was opened and closed.

Writing the Report the Easy Way

Good news: You don't have to write the police report from scratch. The FTC's online ID Theft Complaint form gathers all of the victim's information that the law requires. Many ID theft victims won't have the information to fill out the entire form, however. They simply may not know things like the date on which the theft took place, or how it happened. Ask victims to complete as much of the FTC ID Theft Complaint form as they can (you'll find the form at ftc.gov/idtheft), print it and bring you a copy, and sign it in your presence. You should sign the section called "Law Enforcement Report Information." **Then, simply attach or incorporate the FTC ID Theft Complaint into the police report you write.** Please provide the victim with a copy of the police report, attaching or incorporating the victim's FTC ID Theft Complaint, so they can send copies to the credit reporting companies and businesses involved to take advantage of their FCRA rights.

More information is available at ftc.gov/idtheft.

Enclosures: FCRA Sections 605B, 615(f), 623(a)(6)

¹ These are requirements of an "Identity Theft Report" under Section 605B of the Fair Credit Reporting Act and the Federal Trade Commission's related regulations.

ENCLOSURE: FCRA 605B (15 U.S.C. § 1681c-2)

Block of Information Resulting from Identity Theft

(a) Block

Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 4 business days after the date of receipt by such agency of —

- 1) appropriate proof of the identity of the consumer;
- 2) a copy of an identity theft report;
- 3) the identification of such information by the consumer; and
- 4) a statement by the consumer that the information is not information relating to any transaction by the consumer.

(b) Notification

A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a) of this section —

- 1) that the information may be a result of identity theft;
- 2) that an identity theft report has been filed;
- 3) that a block has been requested under this section; and
- 4) of the effective dates of the block.

(c) Authority to decline or rescind

1) In general

A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that —

- A) the information was blocked in error or a block was requested by the consumer in error;
- B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact by the consumer relevant to the request to block; or
- C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

2) Notification to consumer

If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 1681i(a)(5)(B) of this title.

3) Significance of block

For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer

ENCLOSURE: FCRA 605B (15 U.S.C. § 1681c-2)

knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

(d) Exception for resellers

1) No reseller file

This section shall not apply to a consumer reporting agency, if the consumer reporting agency —

- A) is a reseller;
- B) is not, at the time of the request of the consumer under subsection (a) of this section, otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and
- C) informs the consumer, by any means, that the consumer may report the identity theft to the Commission to obtain consumer information regarding identity theft.

2) Reseller with file

The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if —

- A) the consumer, in accordance with the provisions of subsection (a) of this section, identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and
- B) the consumer reporting agency is a reseller of the identified information.

3) Notice

In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

(e) Exception for verification companies

The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 4 business days after receipt of information described in paragraphs (1) through (3) of subsection (a) of this section, a check services company shall not report to a national consumer reporting agency described in section 1681a(p) of this title, any information identified in the subject identity theft report as resulting from identity theft.

(f) Access to blocked information by law enforcement agencies

No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.

ENCLOSURE: FCRA 615(f) (15 U.S.C. § 1681m(f))

Requirements on Users of Consumer Reports — Prohibition on Sale or Transfer of Debt Caused by Identity Theft

(f) Prohibition on sale or transfer of debt caused by identity theft

1) In general

No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 1681c-2 of this title has resulted from identity theft.

2) Applicability

The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

3) Rule of construction

Nothing in this subsection shall be construed to prohibit--

- A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;
- B) the securitization of a debt or the pledging of a portfolio of debt as collateral in connection with a borrowing; or
- C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.

ENCLOSURE: FCRA 623(a)(6) (15 U.S.C. § 1681s-2(a)(6))

Responsibilities of Furnishers of Information to Consumer Reporting Agencies — Duties of Furnishers upon Notice of Identity Theft-Related Information

(6) Duties of furnishers upon notice of identity theft-related information

A) Reasonable procedures

A person that furnishes information to any consumer reporting agency shall have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 1681c-2 of this title relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information.

B) Information alleged to result from identity theft

If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.